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- \* **IN THE HIGH COURT OF DELHI AT NEW DELHI**
- + W.P.(C)3088/2020 and CM No. 10735/2020, CM No. 10736/2020  
THE AMBROSIA FOUNDATION SOCIETY (REGD.)..... Petitioner  
Through: Mr.Dhananjay Singh Sehrawat,  
Advocate  
versus  
GOVT. OF NCT OF DELHI &ANR. .... Respondents  
Through: Mr.Ramesh Singh, SC with  
Mr.Dhananjay Mishra, Ms.Bhawna  
Kataria, Advocates for GNCTD  
Mr.Amit Mahajan, Advocate for UOI  
**AND**
- + W.P.(C)3090/2020 and CM No. 10741/2020, CM NO. 10742/2020  
CHANDNI SOOD ..... Petitioner  
Through: Mr.Shlok Chandra and Ms.Gauri Puri,  
Advocates  
versus  
GOVT. OF NCT OF DELHI .... Respondent  
Through: Mr.Ramesh Singh, SC with  
Mr.Dhananjay Mishra, Ms.Bhawna  
Kataria, Advocates for GNCTD  
Mr.Amit Mahajan, Advocate for UOI  
Ms.Anusuya Salwan, Advocate  
**AND**
- + W.P.(C)3093/2020 and CM No. 10748/2020, CM No. 10749/2020  
CM No. 10750/2020  
CIVIL SOCIETY COUNCIL OF INDIA ..... Petitioner  
Through: Mr.Arvind Vashishtha, Advocate  
versus  
GOVT. OF NCT OF DELHI & ORS. .... Respondents  
Through: Mr.Ramesh Singh, SC with  
Mr.Dhananjay Mishra, Ms.Bhawna  
Kataria, Advocates for GNCTD  
**AND**

- + W.P.(C)3094/2020 and CM No. 10751/2020, CM No. 10752/2020  
VARUN K. BALA ..... Petitioner  
Through: Petitioner in person  
versus  
GOVT. OF NCT OF DELHI & ORS. .... Respondents  
Through: Mr.Ramesh Singh, SC with  
Mr.Dhananjay Mishra, Ms.Bhawna  
Kataria, Advocates for GNCTD  
Mr.Amit Mahajan, Advocate for UOI  
**AND**
- + W.P.(C)3097/2020 and CM No. 10757/2020, CM No. 10758/2020  
SAJAG NIJHAWAN ..... Petitioner  
Through: Mr.A.S.Chandiok, Sr.Adv. with  
Ms.Simran Kohli, Advocate  
versus  
GOVT. OF NCT OF DELHI & ORS. .... Respondents  
Through: Mr.Ramesh Singh, SC with  
Mr.Dhananjay Mishra, Ms.Bhawna  
Kataria, Advocates for GNCTD

**CORAM:**

**HON'BLE MR. JUSTICE RAJIV SAHAI ENDLAW**

**HON'BLE MS. JUSTICE SANGITA DHINGRA SEHGAL**

**ORDER**

**% 11.05.2020**

**[VIA VIDEO CONFERENCING]**

1. All these petitions, filed as public interest litigation, seek (a) direction to the GNCTD to immediately stop the sale of liquor in the NCT of Delhi and to not allow the sale of liquor till the situation prevalent in the country in the wake of Covid-19, improves; and/or, (b) a direction to the respondents to, while allowing sale of liquor, ensure social distancing norms of 6 feet between each customer and presence of only five persons at one

time at the shops across the State of NCT of Delhi where alcohol is being sold; alternatively, (c) mandamus directing GNCTD to allow online sale and/or home delivery of alcohol, to prevent crowding in purchase thereof.

2. At the outset, the senior standing counsel for the Union of India has contended that W.P.(C) No. 000474/2020 titled “***Guruswamy Nataraj Vs. Union of India***” claiming the same reliefs, for across India, including for NCT of Delhi, was dismissed by the Supreme Court of India on 8<sup>th</sup> May, 2020, leaving it open to the concerned state governments to consider non-direct sale including online sale/ home delivery of liquor to facilitate social distancing. It is argued that these petitions thus are not maintainable.

3. Neither the senior counsel nor counsel for any of the other petitioners save one, have pressed for the relief of prohibition i.e. total ban of sale of liquor in Delhi during the pandemic. The only counsel who sought a complete ban on sale of alcohol in Delhi also has filed this petition merely on the basis of news reports of crowding at the liquor outlets; however on our enquiry from him, whether not there have been news reports also of the taxation revenue from the sale of liquor forming an important component of the source of revenue of GNCTD and GNCTD being unable to perform its vital functions on such source of revenue being stopped, and what was his proposal for substituting the said revenue, the said counsel also did not press for complete prohibition.

4. The senior counsel for the petitioner in W.P.(C) 3097/2020 has contended that the only solution to the problem of crowding at the liquor outlets is to permit online sale of liquor and for home delivery and a direction should be issued to the GNCTD to devise a methodology therefor.

He has informed that *Zomato*, till now engaged in home delivery of food from restaurants, hotels and eateries, has offered to also participate in the home delivery of alcohol. It is argued that since *Zomato* and other like entities have an established business model of home distribution, they are already equipped to commence home delivery of liquor and the same will prevent the danger of spread of Covid-19 by those desiring to purchase alcohol coming in close contact with each other.

5. We have however inquired from the senior counsel for the petitioner, whether home delivery of alcohol can be equated with home delivery of food. From the news reports of conduct of patrons of alcohol, on reopening of liquor outlets after more than a month, it appears that home delivery of alcohol would be fraught with security and safety issues. The possibility of alcohol being snatched during transit cannot be ruled out. The possibility of home delivery of alcohol, distribution whereof till now is largely in the hands of State, would also increase the possibilities of adulteration of alcohol, also resulting in loss of life. It appears that transit of alcohol from home to home would have to be in the same manner and style as transit of cash between banks and between banks and ATMs.

6. The senior counsel and other counsels for the petitioners state that in the scheme to be devised, precautions for all such apprehensions can be inbuilt.

7. The counsel for the petitioner in W.P.(C) 3090 of 2020 states that he has studied the systems of home delivery of liquor prevalent in several other jurisdictions. He states that in home delivery of liquor, it also has to be ensured that the liquor is not delivered to those below the drinking age of 25

years in Delhi. It is also argued that consumption of liquor is associated with high incidents of domestic violence and while delivering liquor at home, precaution therefor also has to be taken. He has made the following suggestions:-

- i. That deliveries should be against documents in proof of identity and age and record thereof should be maintained by the person/agency delivering.
- ii. That the packaging in which liquor is delivered should prominently display helpline numbers for victims of domestic violence as well as the legal drinking age and warning that “drinking of alcohol is injurious to health”.
- iii. That there should be a limit on the quantity of alcohol which can be delivered at home.
- iv. That it should also be ensured that the alcohol is not adulterated in transit inasmuch as loss of life by consumption of spurious liquor is a regular feature.
- v. That the possibility of delivery of alcohol not only by existing liquor vendors but also by hotels and restaurants already licensed to serve alcohol should also be considered. It is informed that in several countries home delivery of cocktails is in vogue.
- vi. That time of distribution and delivery of alcohol should be fixed keeping in view the security concerns and the possibility of domestic violence.
- vii. Record of all persons coming in contact with the delivery personnel should be maintained, to facilitate contact tracing in the event of need.

8. The counsel for DTTDC, also involved in sale of alcohol in Delhi,

states that at present there are various restrictions in force and as a result whereof all the vends licensed to sell liquor are not open. It is also informed that some private vends and vends in malls and markets are not being permitted to be opened.

9. The counsel for the GNCTD states that all the vends could not be permitted to open because of restrictions already in force under the directions of the Central Government. It is stated that under the Disaster Management Act, 2005, the State Governments though are entitled to provide for more stringent measures than those prescribed by the Central Government, but are not entitled to relax any of the measures directed by the Central Government.

10. Else the counsel for the GNCTD as well as the counsel for the Union of India state that they are looking into the matter of online sale of liquor and would be taking a decision with respect thereto. It is stated that the Rules framed under the Excise Acts in force at this moment do not permit such online sale of liquor.

11. We are afraid that any delay on the part of the Central Government and the GNCTD can exacerbate the problem of crowding outside liquor shops and would defeat the purpose, inasmuch as more the delay, more will be the number of persons outside liquor shops, each day, who will come in close contact with each other, increasing the probability of spread of Covid-19. Moreover, it is not as if the problem is of a permanent nature, solution whereof can be devised at leisure; the problem is perhaps of a few days more inasmuch as once the patrons of alcohol are satisfied that there would be no further closure, the crowding outside liquor shops is likely to

disappear.

12. We have however, enquired from the counsels for Central Government and GNCTD, why all the liquor vends already existing in the city cannot be opened up and which will automatically reduce crowding outside the limited number of shops which are open at present.

13. The Counsels state that they will look into the said aspect.

14. The counsel for the GNCTD has also read out to us the various instructions which have already been issued to the liquor vendors which have been opened, to ensure social distancing. It is also informed that separate queues for those approaching to purchase liquor along with the e-tokens and those approaching without e-tokens have been directed to be maintained. On enquiry, why sale only against e-tokens cannot be directed, it is stated that all purchasers may not have access to internet. The possibility of permitting opening up of cyber cafes across Delhi wherefrom e-tokens can be applied, has also been discussed.

15. We however are of the opinion that the instructions as have been read out to us, are without regard to the location and position of the liquor vends. It appears to us that considering the location and position of most of the liquor vends in the city, it is not possible to maintain social distancing as has been prescribed and the instructions stated to have been issued will not serve any purpose and will remain on paper only. Most of the liquor vends open on and have delivery counter facing the road and do not permit entry of any person therein except the staff deployed for selling. The roads on which the vends are situated also do not permit of any prescribed social distancing to be maintained.

16. We also learn that the online issuance of e-tokens for purchase of liquor has not met with much success owing to the token holder thereof still being required to spend considerable time at the shop and which leads to crowding. We have inquired, whether at the time of applying for e-token, the patron is able to make a choice of brand of alcohol desired to be purchased, to know the availability thereof and to make payment thereof. We are of the opinion that for e-tokens to effectively reduce the time spent at the liquor vends, these factors are essential.

17. The counsel for the GNCTD states that he has no instructions on this aspect and if these factors have not been considered, ensures consideration thereof in the decision making.

18. The possibility of deployment of sufficient number of police personnel outside each liquor vend has also been discussed but it is felt that the same is not a solution to the problem.

19. Though we also do not intend to issue any directions as sought in these petitions, inasmuch as the Courts are not equipped to decide such like matters and which are in the exclusive domain of the Executive but have heard the counsels and recorded what has transpired in the hearing, as it is felt that the GNCTD and the Central Government, which are informed to be at the stage of taking a decision, take such decision with inputs from what has transpired during the hearing and to accept such of the suggestions which may be found to be workable.

20. The petitions are therefore disposed of, though without granting reliefs claimed but beseeching the GNCTD and the Central Government to

take a decision after considering the suggestions made during the hearing, but at the earliest so that more damage than has already been done is not caused and so that the decision taken, serves the need of the hour.

**RAJIV SAHAI ENDLAW, J.**

**SANGITA DHINGRA SEHGAL, J**

**MAY 11, 2020 / SU**